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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,460	10/21/2003	Michael R. Belleau	Stucco-4	4828
7590	03/28/2005		EXAMINER	
Donald N. Halgren 35 Central Street Manchester, MA 01944				GREEN, CHRISTY MARIE
		ART UNIT	PAPER NUMBER	3635

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/690,460	BELLEAU, MICHAEL R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christy M Green	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 October 2003.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 15-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

This is a first office action for serial number 10/690460, entitled Stucco Wall Building Arrangement, filed on October 21, 2003. This application is a Continuation-In-Part of patent application 09/338398, now patent number 6,314,695.

### ***Response to Preliminary Amendment***

In response to the preliminary amendment filed 1/3/05, the applicant has cancelled claims 1-14, and added new claims 15-24.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edgar et al., US Patent # 5,410,852 in view of Grimmer, US patent # 5,389,317.

Edgar discloses the claimed invention including a stucco wall building (figures 1 and 2) comprising a wall substrate (18), a peripheral screed arrangement (22) disposed on the wall substrate, an insulation layer (28), a first layer of polymer-based base coat (29) and mesh covering (30) and an outer layer of stucco (31) applied over the first layer of base coat as a final coat (figure 1); the insulation coating (28) is thicker than the screed (22); the first layer of base coat and mesh is about 1/8 inch thick (column 4, lines 34-38); the wall structure (figure 1) has a peripheral margin and an opening margin (at 35), and a screed (22) is placed around the margin; the screed is of "L" or "J" shape in

cross section (shown in figure 1 – by cross section – shape depends on whether one views the screed from the left or right side.)

Edgard does not teach a sprayed-on coating of urethane onto a wall substrate, and the final layer is about  $\frac{1}{4}$  inch thick.

Grimmer teaches that it is known in the art to provide a sprayed-on coating of urethane (column 4, lines 53-55) onto a wall substrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sprayed on coating of urethane as taught by Grimmer with the wall building of Edgar, in order to eliminate wet out problems since the urethane is introduced uniformly (column 4, lines 49-51).

Regarding the final layer to be about  $\frac{1}{4}$  inches thick, it would have been an obvious matter of design choice to provide the final layer to be about  $\frac{1}{4}$  inches thick, based upon the desired aesthetics for the completed wall system, the typical wear resistance of the stucco material, and the cost of the stucco, and the resultant wall of Edgar remains functionally equivalent regardless of the amount of thickness the stucco or final layer is.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edgar in view of Grimmer and further in view of Tomec, Re# 20,607.

Edgar in view of Grimmer discloses the claimed invention as stated above, except for the outer layer of stucco is comprised of a thin sheet of brick face. Tomec teaches that it is known in the art to provide an exterior of a building structure with an outer layer of stucco (20 – page 2, column 2, lines 9-12) comprised of a thin sheet of

brick face (shown at 2, page 2, column 2, lines 19-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the outer layer of stucco to have a thin sheet of brick face as taught by Tomec with the wall substrate of Edgar in view of Grimmer in order to provide a building material formed of a plurality of layers capable of limited movement with respect to a base or support structure (page 1, column 1, lines 54-55 and column 2, lines 1-2) and to ultimately enhance the outer surface of the wall.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edgar in view of Truesdell, US Patent # 4,342,181 and further in view of Grimmer.

Edger discloses the claimed invention a method of insulating and finishing a vertical wall structure comprising the steps of applying a screed arrangement (22) applying a first coat of polymer base (29) and mesh coat (30), applying a stucco finish material (31). Edger does not disclose the step of spraying a urethane foam on to the surface of the wall structure and cleaning the surface of the wall structure to be treated.

Truesdell teaches that it is known in the art to provide the step of cleaning the surface of a wall structure to be treated (column 7, lines 16-17 and column 8, lines 1-2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the step of cleaning the surface of the wall structure as taught by Truesdell with the steps of insulating a wall structure of Edger in order to provide a clean surface free of debris and particles which could alter the adhesiveness of the surfaces added to the wall structure.

Grimmer teaches that it is known in the art to provide the step of spraying a coating of urethane (column 4, lines 53-55) onto a wall substrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sprayed on coating of urethane as taught by Grimmer with the wall building of Edgar in view of Truesdell, in order to eliminate wet out problems since the urethane is introduced uniformly (column 4, lines 49-51).

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edgar in view of Truesdell, and Grimmer and further in view of Belleau, US Ptent # 6,354,009.

Edgar in view of Truesdell and further in view of Grimmer discloses the claimed invention as stated above, except for the step of vacuum planning the sprayed-on coat of urethane and guiding the vacuum planner at one end. Belleau teaches that it is known in the art to provide the steps of vacuum planning the sprayed-on coat of urethane (column 2, lines 56-58) and guiding the vacuum planner at one end (column 3, lines 13-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the steps of vacuum planning and guiding the vacuum planner as taught by Belleau in order to resurface and flatten an applied urethane foam on a wall surface (column 1, lines 49-51).

#### ***Response to Arguments***

Applicant's arguments with respect to claims15-24 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cl  
Cg

March 18, 2005



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600